

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SPECIAL SESSION—SAN DIEGO
DECEMBER 7 and 8, 2004**

The following cases are placed upon the calendar of the Supreme Court for a special session at the University of San Diego, School of Law, Joan B. Kroc Institute for Peace and Justice, 5998 Alcalá Park, San Diego, California, on December 7 and 8, 2004.

TUESDAY, DECEMBER 7, 2004—9:00 A.M.

Opening Remarks: Historic Special Session
(Morning session to be televised.)

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|-----|---------|---|---|
| (1) | S082299 | In re Peter Sakarias on Habeas Corpus | } (Consolidated cases
to be argued together) |
| (2) | S102401 | In re Tauno Waidla on Habeas Corpus | |
| (3) | S117568 | People v. David Carson | |
| (4) | S116670 | In re Anderson Hawthorne on Habeas Corpus | |

2:00 P.M.

- | | | |
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| (5) | S121400 | Varian Medical Systems v. Delfino |
| (6) | S033440 | People v. Vicente F. Benavides <i>[Automatic Appeal]</i> |

WEDNESDAY, DECEMBER 8, 2004—9:00 A.M.

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| (7) | S113275 | Campbell v. Regents of the University of California |
| (8) | S123722 | In re Howard Kenneth N. |
| (9) | S122240 | People v. Catarino Gonzalez, Jr. |

1:30 P.M.

- | | | |
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| (10) | S113201 | Honeywell v. Workers' Compensation Appeals Board; Wagner |
| (11) | S035367 | People v. Cedric Harrison <i>[Automatic Appeal]</i> |
| (12) | S026040 | People v. Richard John Vieira <i>[Automatic Appeal]</i> |

George
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT OF CALIFORNIA
ORAL ARGUMENT CALENDAR
SPECIAL SESSION—SAN DIEGO
DECEMBER 7 and 8, 2004**

The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, DECEMBER 7, 2004—9:00 A.M.

Opening Remarks: Historic Special Session
(Morning session to be televised.)

(1) In re Peter Sakarias on Habeas Corpus, S082299 and (2) In re Tauno Waidla on Habeas Corpus, S102401

In this case, which is related to the automatic appeals in *People v. Sakarias* (2000) 22 Cal.4th 596 and *People v. Waidla* (2000) 22 Cal.4th 690, the court issued an order to show cause including the following issue: Does the prosecutor's use in petitioners' separate trials of conflicting and assertedly false factual theories entitle either petitioner to a new penalty trial?

(3) People v. David Carson, S117568

#03-112 *People v. David Carson*, S117568. (B153072; 109 Cal.App.4th 978; Superior Court of Los Angeles County; PA034279.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case includes the following issues: (1) Can a defendant's right of self-representation be terminated only for in-court misconduct that disrupts or obstructs the trial proceedings, or are there circumstances in which a defendant's out-of-court misconduct may support the termination of his or her right of self-representation? (2) If a defendant's out-of-court misconduct may support the

termination of self-representation in some circumstances, did defendant's out-of-court misconduct in this case justify such termination?

(4) In re Anderson Hawthorne on Habeas Corpus, S116670

In this case, which is related to the automatic appeal in *People v. Hawthorne* (1992) 4 Cal.4th 43, the court issued an order to show cause including the following issue: Is petitioner entitled to relief from the judgment of death on the ground that he is mentally retarded within the meaning of *Atkins v. Virginia* (2002) 536 U.S. 304?

2:00 P.M.

(5) Varian Medical Systems v. Delfino, S121400

#04-17 Varian Medical Systems v. Delfino, S121400. (H024214; 113 Cal.App.4th 273; Superior Court of Santa Clara County; CV780187.) Petition for review after the Court of Appeal modified and affirmed the judgment in a civil action. The court limited review to the following issue: Does an appeal from the denial of a special motion to strike under the anti-SLAPP statute (Code Civ. Proc., § 425.16) result in an automatic stay of the trial court proceedings?

(6) People v. Vicente F. Benavides, S033440 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

WEDNESDAY, DECEMBER 8, 2004—9:00 A.M.

(7) Campbell v. Regents of the University of California, S113275

#03-34 Campbell v. Regents of the University of California, S113275. (A097560; unpublished opinion; Superior Court of San Francisco County; 312736.) Petition for review after the Court of Appeal affirmed the judgment dismissing a civil action. This case presents the following issue: Must a plaintiff exhaust an internal administrative

remedy provided by a public employer before bringing a “whistleblower claim” (Lab. Code, § 1102.5), or filing an action under the False Claims Act (Gov. Code, § 12653)?

(8) *In re Howard Kenneth N., S123722*

#04-42 *In re Howard Kenneth N., S123722.* (F043006; 115 Cal.App.4th 1134; Superior Court of Kern County; JW081822-03.) Petition for review after the Court of Appeal reversed an order of extended civil commitment of a juvenile offender. This case presents the following issue: Are the provisions for civil commitment of a juvenile offender who is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality (Welf. & Inst. Code, § 1800 et seq.) unconstitutional in failing to require a finding that the juvenile is physically dangerous to the public because of a mental or physical deficiency, disorder, or abnormality that causes serious difficulty in controlling behavior? (See *Kansas v. Crane* (2002) 534 U.S. 407.)

(9) *People v. Catarino Gonzalez, Jr., S122240*

#04-24 *People v. Catarino Gonzalez, Jr., S122240.* (B154557; unpublished opinion; Superior Court of Los Angeles County; BA172833.) Petition for review after the Court of Appeal reversed a judgment of conviction of criminal offenses. This case presents the following issues: (1) Did the following statement made by defendant to police during custodial interrogation—“[I]f for anything you guys are going to charge me I want to talk to a public defender too, for any little thing”—constitute an unambiguous invocation of defendant’s right to counsel under *Davis v. United States* (1994) 512 U.S. 452 and render subsequent statements by defendant to police inadmissible at trial? (2) If so, was defendant prejudiced by the admission of those statements at trial?

1:30 P.M.

(10) *Honeywell v. Workers’ Compensation Appeals Board; Wagner, S113201*

#03-45 *Honeywell v. Workers’ Compensation Appeals Board; Wagner, S113201.* (B156438; 104 Cal.App.4th 829.) Petition for review after the Court of Appeal annulled

a decision of the board. This case includes the following issues: (1) What degree of knowledge that an employee has suffered an industrial injury must an employer have in order to trigger the employer's duty to provide the employee with a claim form (Lab. Code, § 5401)? (2) If the employer fails to comply with its statutory duty to provide the claim form, does the 90-day period in which the employer must deny the claim in order to avoid a presumption that the claim is compensable (Lab. Code, § 5402) begin to run at the time the claim form should have been provided or not until the employee actually returns the completed form?

(11) People v. Cedric Harrison, S035367 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.

(12) People v. Richard John Vieira, S026040 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.